

**Attachment 3.5-2**  
**Williamson Act Contract**  
**for the Property**

551

76

## CALIFORNIA LAND CONSERVATION CONTRACT NO.

76-CI-39

A CALIFORNIA LAND CONSERVATION CONTRACT, made and entered into this 10<sup>th</sup> day of November, 1975, by and between the County of San Joaquin, a political subdivision of the State of California, hereinafter referred to as "County", and (print or type) MITSUO KAGEHIRO and ELSIE A. KAGEHIRO, his wife, as Community Property, or the successors thereof, hereinafter referred to as "Owner";

## WITNESSETH:

WHEREAS, Owner is the legal owner of certain real property, herein referred to as the subject property, situate in the County of San Joaquin, State of California; and

WHEREAS, the subject property is presently devoted to agricultural and compatible uses; and

WHEREAS, the subject property is described in Exhibit "A" which is made part of this contract; and

WHEREAS, subject property is located in an agricultural preserve heretofore established by County by Resolution No. 69-61, a map of which preserve is recorded with the Recorder of the County of San Joaquin in Book 1 of Agricultural Preserve Maps, Page 3; and

WHEREAS, both Owner and County desire to limit the use of subject property to agricultural and compatible uses in order to discourage premature and unnecessary conversion of such land from agricultural uses, recognizing that such land has definite public value as open space, that the preservation of such land in agricultural production constitutes an important physical, social, esthetic, and economic asset to the County to maintain the agricultural economy of County and the State of California, and that the common interest is served by encouraging and making feasible the orderly expansion of development of the urban and commercial sectors of the County to avoid the disproportionate expense involved in providing municipal services to scattered development; and

WHEREAS, both Owner and County intend that the Contract is and shall continue to be through its initial term and any extension thereof an enforceable restriction within the meaning and for the purposes of Article XXVIII of the California Constitution and thereby qualify as an enforceable restriction as defined in Revenue and Taxation Code Section 422;

NOW, THEREFORE, the parties, in consideration of the mutual covenants and conditions set forth herein and the substantial public benefits to be derived therefrom, do hereby agree as follows:

- (1) This Contract is made and entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 of Part 1 of Division 1 of Title 5 of the California Government Code, commencing with Section 51200), hereinafter referred to as the Act, and is subject to all the provisions of the Act which are herein incorporated by reference, including any subsequent amendments thereto.
- (2) The Contract shall be effective on March 1, 1976, hereinafter referred to as the anniversary date, and shall remain in effect for a period of ten years therefrom. On each anniversary date, one (1) year shall be added automatically to the initial term of the Contract unless notice of nonrenewal is served by Owner at least ninety days prior to the anniversary date or by County at least sixty days prior to the anniversary date as provided in Government Code Section 51245. If either party gives notice of nonrenewal, it is understood and agreed that the Contract shall remain in effect for the unexpired term. A notice of nonrenewal, irrespective of which party gives the notice, shall be recorded by the County. Upon request of Owner, County may authorize the Owner to serve a notice of nonrenewal on a portion of the subject property. Nonrenewal by the County shall be served on the Agent For Notice.
- (3) During the term of the Contract or any renewals thereof, the subject property shall not be used for any purpose other than the production of agricultural commodities and compatible uses as listed in the Resolution establishing the rules implementing the Act. Owner shall be limited to such uses even though ordinances, codes or regulations of County authorize different uses. If, however, the ordinances, codes or regulations of County are more restrictive than such uses, the ordinances, codes or regulations shall prevail.
- (4) The Board of Supervisors of County may, from time to time, and during the term of the Contract or any renewal thereof, by resolution add to those uses listed in Paragraph 3 of the Contract; provided, however, said Board shall not eliminate, without the written consent of Owner, a compatible use during the term of the Contract or any renewals thereof unless elimination of such uses has been found by said Board by ordinance, or by State law, to be required in order to insure public health or safety.
- (5) Upon the filing of an action in eminent domain by an agency or persons specified in Government Code Section 51295 for the condemnation of the fee title to all the subject property or upon the acquisition of the fee in lieu of condemnation, the Contract shall be null and void on the date of filing of suit or upon the date of acquisition as to the land condemned or acquired, and the condemning or acquiring agency or persons shall proceed as if the Contract never existed.

Upon filing of an action in eminent domain by an agency or persons specified in Government Code Section 51295 for the condemnation of the fee title to a portion of the subject property, or upon the acquisition of the fee in lieu of condemnation, the Contract shall be null and void on the date of filing suit or upon the date of acquisition as to the portion of the subject property condemned or acquired and shall be disregarded in the valuation process only as to the land actually taken, unless the remaining portion of the land subject to the Contract will be adversely affected by the take or acquisition in which case the value of that damage shall be computed

without regard to the Contract. Under no circumstances shall any of the subject property be removed from the provisions of the Contract that is not actually taken or acquired, except as otherwise provided in the Contract.

In the event a condemnation suit is abandoned in whole or in part or if funds are not provided to acquire the property in lieu of condemnation, Owner agrees to execute a new agreement for all of the property to have been taken or acquired identical to the Contract in effect at the time suit was filed or on the date the land was to have been acquired; provided, however, if a notice of nonrenewal had been given by either party prior to the filing of suit or the date the property was to have been acquired, Owner agrees to execute such a Contract for a term of as long as the Contract would have remained in effect had the condemnation suit or acquisition never taken place.

- (6) It is agreed that the consideration for the execution of the Contract is the substantial public benefit to be derived by County from the preservation of land in agricultural or compatible uses and the advantage which will accrue to Owner as a result of the effect on the method of determining the assessed value of the subject property and any reduction thereto due to the imposition of limitations on its use set forth in the Contract. County and Owner shall not receive any payment in consideration of the obligations imposed herein.
- (7) The Contract shall run with the land described herein and, upon division, to all parcels created therefrom, and shall be binding upon the heirs, successors and assigns of Owner. The Contract shall be transferred from County to a succeeding city or a county acquiring jurisdiction over all or any portion of subject property. If a city acquires jurisdiction over all or a portion of the subject property by annexation proceedings, the city shall succeed to all rights, duties and powers of County under the Contract; provided, however, that if the subject property or a portion thereof was within one mile of the city at the time the Contract was initially executed and the city successfully protested the execution of the Contract pursuant to Section 51243.5 of the Government Code, the city may state its intent not to succeed to the rights, duties and powers in the resolution of intention to annex. If the local agency formation commission upholds the city's protest and if the city states its intention not to succeed to the rights, duties, and powers of County under the Contract, the Contract becomes null and void as to the subject property actually annexed on the date of annexation. If only part of the land under Contract was within one mile of the city, the Contract shall become null and void only to the extent of that part.
- (8) The Contract may be cancelled, as herein provided, as to all or a part of the subject property only upon the petition of Owner to County, and after public hearing has been held and notice thereof given as required by Section 51284 of the Government Code. The Board of Supervisors of the County may approve the cancellation only if they find cancellation is not inconsistent with the purposes of the California Land Conservation Act of 1965 and that cancellation is in the public interest. It is understood by the parties hereto that there is no right to cancellation and that the existence of an opportunity for another use of subject property should not be sufficient reason for cancellation of the Contract. The uneconomic character of the existing agricultural or compatible use will be considered only if the subject property can not be reasonably be put to a permitted agricultural or compatible use specified in Paragraph 3 or 4 of the Contract. Parties hereto agree that (1) computation of the cancellation valuation, (2) determination, assessment, and payment of the cancellation fee, (3) waiver of payment of all or a portion of the cancellation fee, (4) distribution of the cancellation fee as deferred taxes, (5) recording of Certificate of Cancellation, and (6) the creation, attachment, and release of any lien created by the imposition of a cancellation fee shall be as provided in Article 5 of the California Land Conservation Act of 1965.
- (9) The Contract may be cancelled by mutual agreement of County and Owner without payment of a cancellation fee or public hearings whenever there is no operative legislation implementing Article XXVIII of the California Constitution at the time the cancellation is requested by Owner.
- (10) Any conveyance, contract, or authorization (whether written or oral) by Owner or his successors in interest which would permit use of the subject property contrary to the terms of the Contract or failure to use the property consistent with the provisions herein will be deemed a breach of the Contract. Such breach may be enforced by County by an action filed in the Superior Court of the County for the purpose of compelling compliance or restraining breach thereof. It is understood and agreed by the parties hereto that the enforcement proceedings provided in the Contract are not exclusive, and both Owner and County may pursue their legal and equitable remedies. Owner agrees to pay to County reasonable attorneys fees and costs of suit together with any other costs necessary for enforcement of the provisions of the Contract.
- (11) County may declare the Contract terminated if it (or another substantially similar contract) is declared invalid or ineffective in any court adjudication accepted by County as final, but no cancellation fee or other penalties shall be assessed against Owner upon such termination.
- (12) In the event the subject property is divided, Owner or his successors in interest agrees as a condition of such division to execute a contract or contracts so that at all times the subject property is restricted by contract or contracts identical to the Contract covering the subject property at the time of such division. County, any other political entity, or any court having jurisdiction and making an order of division of the subject property shall as the condition of the division require the execution of the Contracts provided for in this paragraph. The owner of any parcel created by the division of the subject property may exercise, independent of any other owner of a portion of the divided property, any of the rights of Owner executing the Contract to give notice of nonrenewal or to petition for cancellation as provided herein. The effect of any such action by an owner of a parcel created by a division shall not be imputed to the owners of the remaining parcels and shall have no effect on the contracts which apply to the remaining parcels of the divided land.
- (13) Owner, upon the request of County, shall provide information relating to Owner's obligation

under the Contract in order for County to determine the value for assessment purposes or to determine continued eligibility under the provisions of the Act.

- (14) Removal of any of subject property from the agricultural preserve in which the subject property is located shall be equivalent to notice of nonrenewal by County as to the land actually removed from the agricultural preserve. County shall, at least sixty (60) days prior to the next renewal date of the Contract following removal, serve notice of nonrenewal as provided in Paragraph 2 hereof. County shall record the notice of nonrenewal as required by Section 51248; provided, however, that Owner agrees that failure of County to record said notice of nonrenewal shall not invalidate or in any manner affect said notice.
- (15) Owner declares, under penalty of perjury, that the persons signing below are the only persons with legal and security interests in the subject property and agrees to indemnify, defend and save harmless the County from any and all claims, suits, or losses caused by prior claims of other owners or security holders. This declaration and hold harmless clause are binding only upon Owner. Signatures of holders of security interests shall only be evidence of notice of the Contract and acceptance by the holders of security interests of the binding restrictions herein.
- (16) Owner and holders of security interests designate the following person as the Agent For Notice to receive any and all notices and communications from County during the life of the Contract. Owner will notify County in writing of any change of designated person or change of address for him:

DESIGNATED AGENT: J. KINGSLEY CHADEAYNE

MAILING ADDRESS: 37 West Tenth St., P. O. Box 930  
Tracy, California 95376

IN WITNESS WHEREOF, the parties hereto have executed the within Contract the day and year first above written.

551	at 4 <sup>th</sup> min. past 3 P. M.	JAN 6 1976
Recorded at request of COUNTY COUNSEL		
Official Records of	BOOK 4068 PAGE 472	San Joaquin County
Fees \$ <u>22</u>	JAMES M. JOHNSTONE, County Recorder	

"COUNTY"  
 COUNTY OF SAN JOAQUIN, a  
 Political Subdivision of  
 the State of California

Adrian C. Fondse  
 ADRIAN C. FONDSE, Chairman  
 Board of Supervisors

ATTEST: RALPH W. EPPERSON  
 County Clerk and Ex-officio  
 Clerk of the Board of Super-  
 visors of the County of San  
 Joaquin, State of California

By Ralph W. Epperson  
 Deputy Clerk

(SEAL)

# ACKNOWLEDGMENT

STATE OF CALIFORNIA ( ) ss  
 COUNTY OF SAN JOAQUIN ( )

On the 10<sup>th</sup> day of November, in the year 1975, before me,  
 RALPH W. EPPERSON, County Clerk of the County of San Joaquin personally appeared

ADRIAN C. FONDSE

known to me to be \_\_\_\_\_  
 Chairman of the Board of Supervisors of the County of San Joaquin, and known to me to be the person whose  
 name is subscribed to the written instrument on behalf of said public corporation, agency, or political  
 subdivision, and acknowledged to me that such political subdivision executed the same.

RALPH W. EPPERSON, County Clerk

By Ralph W. Epperson  
 Deputy County Clerk



BOOK 4068 PAGE 474

CONTINUED

*Mitsuo Kagehiro*  
Mitsuo Kagehiro

*Elise A. Kagehiro*  
Elise A. Kagehiro

HOLDERS OF SECURITY INTERESTS

Staple Notary Certificates of Owners and Security Holders Here. Additional Certificates  
Should be Attached to the Back of Exhibit A or to an Attached Sheet.

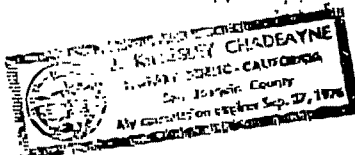
STATE OF CALIFORNIA,

County of San Joaquin

On this Seventy Five day of September in the year one thousand nine  
hundred and Seventy Five before me, Charles J. Chadeayne,  
a Notary Public, State of California, duly commissioned and sworn, personally  
appeared MITSUO KAGEHIRO and ELISE A. KAGEHIRO

known to me to be the person ELISE whose name ELISE subscribed to the  
within instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal  
in the San Joaquin County of San Joaquin, the day and year in this  
certificate first above written.



FORM NO. 32—General Acknowledgment,  
Printed on Southworth's Parchment Bond  
100% Cotton Fiber.

*Charles J. Chadeayne*

Notary Public, State of California

My Commission Expires 9/17/76

EXHIBIT A

Assessor's Parcel No. 209-240-06, 09 and 11.

ESCROW NO. 32402-E  
DESCRIPTION PAGE

DESCRIPTION

All that certain real property situate in the County of San Joaquin, State of California, described as follows:

PARCEL ONE:

All that portion of the South half of Section thirty-six (36), Township two (2) South, Range four (4) East, Mount Diablo Base and Meridian, lying South of the Southern Pacific Railroad Right of Way:  
EXCEPTING THEREFROM the following parcels:

PARCEL A:

The Southeast Quarter of the Southeast Quarter of the Southeast Quarter, and the South one-half of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of said Section thirty-six (36).

PARCEL B:

COMMENCING at a point in the Easterly line of Section thirty-six (36), Township two (2) South, Range four (4) East, 990 feet Northerly from the Southeast corner of said Section and being the Northeasterly corner of the land heretofore conveyed by Deed dated October 6, 1914 and recorded November 13, 1914 in Book "A" of Deeds, Volume 242, page 314, hereby referred to and made a part hereof; running thence Northerly and along said Section line, 150 feet; thence at right angle Southerly 1140 feet to the Southerly line of said Section 36; thence at a right angle Easterly along said Section line, 30 feet to the Southwesterly corner of said parcel of land heretofore conveyed; thence at a right angle Northerly and along the Westerly line of said parcel of land heretofore so conveyed 990 feet to the Northwesterly corner thereof, and thence at a right angle Easterly and along the Northerly line of said parcel of land heretofore so conveyed 660 feet to the point of commencement, containing approximately 3.057 acres, more or less.

PARCEL C:

COMMENCING at a point in the Easterly line of Section 36, Township 2 South, Range 4 East, Mount Diablo Base and Meridian, 1140 feet Northerly from the Southeast corner of said Section and being the Northeasterly corner of the land heretofore conveyed to Valley Pipe Line Co., by Deed dated January 30, 1918 and recorded February 2, 1918 in Book "A" of Deeds, Volume 327, page 179, hereby referred to and made a part hereof; running thence Northerly and along said section line 1430.3 feet to a point of intersection of the Southerly boundary line of the Southern Pacific Railroad Company's Right of Way; thence Southwesterly with an approximate bearing of South 66°19' West along said Southerly boundary line of said Southern Pacific Railroad Right of Way 753.3 feet; thence due South 1137 feet to the Northwesterly corner of said parcel of land heretofore conveyed to said Valley Pipe Line Co.; thence at a right angle Easterly and along the Northerly line of said parcel of land heretofore so conveyed, 690 feet to the point of commencement, containing approximately 20.144 acres, more or less.

PARCEL D:

COMMENCING at the Southwest corner of Section 36, Township 2 South, Range 4 East, Mount Diablo Base and Meridian, and running thence Northerly on the Westerly line of said Section 36 North 0°4' West 1277.0 feet to a point in the Southwesterly line of that certain tract of land conveyed to the United States of America by Deed dated March 10, 1947 and recorded in Book 1106 of Official Records, page 155, running thence Southeasterly and along the Southwesterly line of said lands deeded to the United States of America South 55°51' East 195.7 feet;

ESCROW NO. 32402-E  
DESCRIPTION PAGE 2

thence South 49°51' East 1851.5 feet to a point in the Southerly line of said Section 36; thence North 89°21' West 1581.5 feet, more or less, to the point of beginning, containing 23.83 acres, more or less.  
ALSO EXCEPT THEREFROM that portion conveyed to the United States of America by Deed dated August 15, 1947 and recorded in Volume 1096 of Official Records, page 85, San Joaquin County, State of California.  
ALSO EXCEPT THEREFROM that portion conveyed to the United States of America by Deed dated March 10, 1947 and recorded in Volume 1106 of Official Records, page 155, San Joaquin County, State of California.

PARCEL TWO:

COMMENCING at a point in the Easterly line of Section 36, Township 2 South, Range 4 East, Mount Diablo Base and Meridian, 1140 feet Northerly from the Southeast corner of said section, and being the Northeasterly corner of the land heretofore conveyed by Shell Oil Company, a Delaware corporation, to the Valley Pipe Line Company, by Deed dated January 30, 1918 and recorded February 2, 1918 in Book "A" of Deeds, Volume 327, page 179, hereby referred to and made a part thereof; running thence Northerly and along said section line, 1430.3 feet to a point of intersection of the Southerly boundary line of the Southern Pacific Railroad Company's Right of Way; thence Southwesterly with an approximate bearing of South 66°19' West along said Southerly boundary line of said Southern Pacific Railroad Right of Way 753.3 feet; thence due South 1137 feet to the Northwesterly corner of said parcel of land heretofore conveyed by Shell Oil Company, a Delaware corporation, to the said Valley Pipe Line Company; thence at right angles Easterly and along the Northerly line of said parcel of land heretofore so conveyed, 690 feet to the point of commencement.

EXCEPTING THEREFROM all that portion thereof lying South of a line which is parallel with and 900 feet North of (measured at right angles) the Southerly line of said parcel of land.

ALSO EXCEPT THEREFROM all minerals of whatsoever nature, including but not limited, to oil, other hydrocarbons, gas and associated substances in or under the above described property or that may be produced therefrom, as reserved by Shell Oil Company, a Delaware corporation, in Deed recorded August 21, 1951 in Book of Official Records, Volume 1371, page 86, San Joaquin County Records.

PARCEL THREE:

A portion of the Southeast one-quarter of Section 36, Township 2 South, Range 4 East, Mount Diablo Base and Meridian, described as follows:

COMMENCING at the Southeast corner of said Section 36, said Southeast corner being the Southeast corner of parcel of land heretofore conveyed to the Valley Pipe Line Co., by Deed dated October 6, 1914 and recorded November 13, 1914 in Book "A" of Deeds, Volume 242, page 314, running thence Northerly and along Easterly line of said Section, 50 feet; thence at a right angle Westerly parallel with and 50 feet distant from the Southerly boundary line of said section, 690 feet to a point of intersection of the Westerly boundary line of said parcel of land heretofore so conveyed, thence at a right angle Southerly 50 feet to a point of intersection of the Southerly boundary line of said section; thence at a right angle Easterly and along said Southerly section line, 690 feet to point of beginning.